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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,665	12/18/2000	William B. Douglas	Essent.01USU1	7055

27479 7590 03/19/2004

COCHRAN FREUND & YOUNG LLC
3555 STANFORD ROAD
SUITE 230
FORT COLLINS, CO 80525

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/741,665

Applicant(s)

DOUGLAS, WILLIAM B.

Examiner

Rob Rhode

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

The drawings are objected to because Figures 9 and 10 are too faint for accurate reproduction. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 4 is objected to because of the following informalities: The wording of the claim is confusing and therefore the meets and bounds are difficult to determine. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

For example, essential steps are missing, which the applicant's specification described as necessary to practice the invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 and 11, is rejected under 35 USC 112, second paragraph as being indefinite for failing to particle point and distinctly claim the subject matter which the applicant regards as the invention. For example in claim 10, the body of the claim is not consistent with the preamble and thereby determining the meets and bounds of the claim is not possible. Regarding claim 11, the words used in the body of the claim such as "if desired" is tentative language, which precludes the ability to determine meets and bounds of the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In Claims 1 - 13, the claimed invention is directed to non-statutory subject matter. The claim is directed to a process that does nothing more than manipulate an abstract idea. There is no practical application in the technological arts. See *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974). For

example in claim 1, the invention in the body of the claim does not recite the use of nor incorporate any technology in carrying out the recited method steps and therefore is not statutory. If the invention in the body of the claim is not tied to the technological arts, environment or machine, the claim is not statutory. See *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) [Unpublished] and note MPEP 2106 IV 2(b). While *Bowman* is not precedential, it has been cited for its analysis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 10 and 12 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odom (US 6,058,379) in view of Case (US 6,510,418 B1).

Regarding claim 1 and related claims 10 and 13, Odom teaches a method of providing products to potential buyers, the method comprising the steps of:

providing a system that allows a desired product to be searched (see at least Col 2, lines 49 – 52);

providing information about the desired product responsive to the search (see at least Col 2, lines 49 – 52). Regarding claim 2, Odom teaches a method further comprising the

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step of providing information about the product to the buyer (Col 2, lines 49 – 52) and (3) further comprising the step of updating, editing or changing the product information. Please note that Odom does not specifically disclose updating or changing the product information. However, it is old and well known that the capability to update information has been availability in these methods. Therefore, it would have been obvious to one of ordinary skill to have provided the method of Odom with the method of updating or changing information. In this manner, the information presented will always be timely, which will assure all of the best and most current information. Regarding claim 4, Odom teaches a method wherein the product information is linked to from a marketplace (Col 2, lines 39 – 41) and (5) further comprising the step of providing a search capability for the product to provide the product information to the buyer (Col 2, lines 51 – 52). In addition and regarding claim 6, Odom teaches a method further comprising the step of providing a price watch feature (Col 2, lines 62 – 65). Regarding claim 7, Odom teaches a method further comprising the step of providing a bookmark. While Odom is silent on bookmarks, these are old and well known to one of ordinary skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art to have provided the method of Odom with a bookmark capability in order for a participant to be able to return to the site easily.

However, Odom does not specifically disclose or teach a method of maintaining the anonymity of a supplier of the desired product.

On the other hand, Case teaches a method of maintaining the anonymity of a supplier of the desired product (see at least Col 2, lines 34 – 38). Moreover:

regarding claim 8, Case teaches a method further comprising the step of separating the payment from the buyer and the payment to the supplier (Col 2, lines 27 – 29).

regarding claim 9, Case teaches a method further comprising the step of providing payment pass-through from the buyer to the supplier (Col 1, lines 53 – 55).

regarding the system claims 14, 15, 16 and 17, these claims are rejected with the combination of Odom and Case references sections from claims 10.

It would have been obvious to of ordinary skill in the art at the time of the invention to have provided the method of Odom with the method of Case to have enabled a method of providing products to potential buyers, the method comprising the steps of: providing a system that allows a desired product to be searched; providing information about the desired product responsive to the search; and maintaining the anonymity of a supplier of the desired product – in order to allow buyers to search for products without revealing the identity of the supplier. In this manner, the supplier can protect its identity in order to ensure that competitors cannot determine their pricing structure for a product.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Odom and Case as applied to claim 10 above, and further in view of Doyle (US 5,694,551).

The combination of Odom and Case substantially disclose and teach the applicant's invention.

However, the combination does not specifically disclose and teach a method further comprising the steps of entering a product description and a first price into a database of the system; computing a second price from said first price if desired; providing product description and the second price to prospective buyers; entering shipping and tracking information into said database if a product is purchased, and submitting an invoice to a supplier of said product.

On the other hand and regarding claim 11, Doyle teaches a method further comprising the steps of entering a product description and a first price into a database of the system; computing a second price from said first price if desired; providing product description and the second price to prospective buyers; entering shipping and tracking information into said database if a product is purchased, and submitting an invoice to a supplier of said product (Abstract and Col 7, lines 57 – 64). Moreover:

regarding the system claim18, this claim is rejected too using the Doyle reference sections from claim 11.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Odom and Case with the method of Doyle to have enabled a method further comprising the steps of entering a product description and a first price into a database of the system; computing a second price from said first price if desired; providing product description and the second price to prospective buyers; entering shipping and tracking information into said database if a product is purchased, and submitting an invoice to a supplier of said product – in order to permit resell as well as shipping. In this manner, the allowing a mark up of the price for a cataloger to make a profit from selling others products. Thereby, ensuring that sellers can have multiple channels as well as ensuring profits for all.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7418 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

RER


Jeffrey A. Smith
Primary Examiner